IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brady R. Dow	
Application No.: 10/091,651	**Examiner:** Behrang Badii
Filed: March 5, 2002	**Art Unit:** 3621
For: SYSTEMS AND METHODS FOR DEPLOYING AND UTILIZING A NETWORK OF CONVERSATION CONTROL SYSTEMS	**Confirmation No.:** 9164

Interview Summary

On October 24, 2006, a telephonic interview regarding the above captioned case was held. The participants were:

Examiner Badii,

Applicant's CEO Arthur Coombs, and

Applicant's Attorney Doug Hamilton.

At the outset, Applicant wishes to thank the Examiner for both his time and candor in the aforementioned telephonic interview. Extensive discussion was held surrounding the newly added, unsupportable rejections under 35 U.S.C. §112, and the unfortunate procedural posture resulting from the rejections and reopening of prosecution. No agreement was reached on how best to address the current procedural posture.

The topics discussed surrounded the reopening of prosecution from the appeal filed in the above mentioned case based on an unsupportable position. In particular, the rejection states that prosecution is being reopened because claims 12, 24 and 25 are "replete with errors", with some of the examples including: "I. It is unclear as to who is initiating the contact. II. It is unclear who is the human recipient? Is this a customer? Is this recipient a call center employee? III. How is the recipient sending information if

he/she is by definition a recipient?" Applicant respectfully pointed out that none of the aforementioned points constituted "errors", nor rendered the claims invalid under 35 U.S.C. §112, paragraph 2; and queried as to why such a rejection would have been made. In response, the Examiner could not offer any legally supportable rational, but rather simply stated that he was told to make the rejections by the supervising examiners who had met with him in the appeal conference of September 13, 2006.

In defense of the claims as presently constituted, Applicant proceeded to describe the claims to the Examiner and provided a demonstration exemplary of art falling within the claims at issue. After this, both the Applicant and the Examiner proceeded to review each of the rejected claims and both agreed that the claims were understandable. Indeed, the Examiner correctly pointed out elements of the claims that are distinct from the combination of art cited in the previously made rejections based on 35 U.S.C. §103. Applicant further pointed out that the concepts shown in the demonstration were disclosed in the originally filed specification and summarized in Applicant's Appeal Brief of June 14, 2006. To this, the Examiner responded that he had not read the originally filed specification, argued that he was only required to review the claims at issue, and that neither of the supervising examiners had reviewed the specification. The Examiner continued by suggesting that it is incumbent upon the Applicant to call the Examiner and explain the claims before the first office action is issued.

As the Examiner now admitted that the claims were understandable and the rejection under 35 U.S.C. §112 was not legally supportable, discussion of the previous examination procedures was shelved, and the discussion proceeded to how best to proceed from the now existing situation. Applicant suggested that the previously filed appeal should be reinstated. In such a case, the Examiner would be given another opportunity to either form a prima facie case rejecting the claims at issue before reopening prosecution, or to issue a notice of allowance; and if such is not possible and it is desired to continue forward on the merits based on the currently cited art, the appeal could be allowed to continue to the Board of Appeals where the application could be considered on its merits. Alternatively, Applicant suggested that the Examiner unilaterally withdraw the rejection based on 35 U.S.C. §112, paragraph 2 and allow the appeal to proceed.

The Examiner thought such an approach would not be in everyone's best interest, and rather suggested that Applicant cancel claims 12, 24 and 25, and replace the three claims with three new claims (system, method, device) that each used the exact same language so that his job would be easier as the Examiner wasn't going to get any points for the analysis. The Examiner then noted that where the Applicant follows the Examiner's suggestion that the Examiner may find the claims allowable or he may find some art that would facilitate issuing a final rejection after which an RCE would be required.

Applicant reiterated to the Examiner its intent to have the claims at issue fully considered by the Examiner, but noted Applicant's frustration with the failure to consider each element of the claims in earlier iterations and the introduction of a frivolous 112 rejection at this procedural juncture. In the end, Applicant explained that it merely wanted the application considered on the merits and was unwilling to enter into what appeared to be a procedural game directed at forcing an RCE without ever actually providing a legally supportable prima facie case rejecting the claims at issue. Applicant respectfully explained that it was very concerned moving forward on the path suggested by the Examiner as his examination group appears to emphasize procedural hurdles in place of consideration on the merits. The Examiner provided a thoughtful and candid response for which the Applicant is grateful. In particular, the Examiner explained that he understood the claims at issue and that it was certainly not his intent to do anything other than fully consider the claims on the merits, but that there was very little he could do when the supervising examiners were not inclined to allow the appeal to proceed to the Board of Appeals.

Again, Applicant appreciates the Examiner's time and candor in this matter.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 720-266-4728.

Date: October 30, 2006

Respectfully submitted,
THE HAMILTON LAW FIRM PC

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